



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

<b>Bill #</b>	SB0360	<b>Title:</b>	Revise major facility siting act
<b>Primary Sponsor:</b>	Keane, Jim	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### **FISCAL SUMMARY**

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b>Expenditures:</b>				
General Fund	\$8,720	\$33,888	\$34,060	\$25,000
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$8,720)</u>	<u>(\$33,888)</u>	<u>(\$34,060)</u>	<u>(\$25,000)</u>

### **Description of fiscal impact:**

The Board of Environmental Review (BER), rather than the applicant, would have to pay the expenses of the BER to hear and decide appeals of Department of Environmental Quality decisions. If a decision is remanded to the department to be reworked, the department, rather than the applicant, may be required to bare the expense.

### **FISCAL ANALYSIS**

#### **Assumptions:**

#### **Department of Environmental Quality**

1. This bill would apply to applications anticipated to be filed after the bill is signed into law.
2. This bill would not apply to ongoing applications.
3. One new application for a geothermal generation project would be submitted in the next biennium. It is anticipated that a geothermal application is unlikely to be appealed and thus would not create additional fiscal impact under this bill.
4. Three new transmission lines or pipeline project applications would be submitted in the next biennium.
5. The department would make decisions on two of the applications in the next biennium and on one of the applications in the following biennium.
6. Appeals of the department's decision would be filed for each of the decisions.

7. In each appeal, the BER would appoint an attorney from the Department of Justice's Agency Legal Services Division to act as a hearing officer and conduct the hearing. Any BER expenses (court reporter, travel, etc.) would also be paid by the BER from its own budget.
8. The hearing officer's time would now have to be billed to the department, rather than the project. The current billing rate is \$84/hr; 8 hrs x 10 days x \$84 = \$6,720. Attorney costs would be \$6,720 in FY 2010, \$6,888 in FY 2011 and \$7,060 in FY 2012, adjusted for inflation. Court reporter costs would be \$2,000 per year for FY 2010 through FY 2012.
9. One application for an upgrade of an existing transmission line that needed additional right of way would no longer be covered by the Act.
10. One application would be remanded to the department for further work in FY 2011.
11. The department would incur unreimbursed costs of \$75,000 for reworking the applicant's submission under 75-20-215(7)(b), MCA. This estimate is based on the assumption that the work would be performed by existing staff most familiar with the project, which would require hiring a contractor to work on projects those staff would otherwise be assigned to. Due to the uncertainty of the timing of such a remand, this cost has been spread out over a three-year period beginning in FY 2011 (\$25,000/year).
12. The revised language in 75-20-215(2), MCA, would ensure that the department's expenses in rendering a decision would be covered by a filing fee.

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$8,720	\$33,888	\$34,060	\$25,000
<b>TOTAL Expenditures</b>	<b>\$8,720</b>	<b>\$33,888</b>	<b>\$34,060</b>	<b>\$25,000</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$8,720	\$33,888	\$34,060	\$25,000
<b>TOTAL Funding of Exp.</b>	<b>\$8,720</b>	<b>\$33,888</b>	<b>\$34,060</b>	<b>\$25,000</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$8,720)	(\$33,888)	(\$34,060)	(\$25,000)

**Technical Notes:**

1. On page 2, line 29, the bill provides that a transmission line reconstruction is not subject to the Major Facility Siting Act if newly acquired right of way is 10% of the existing right of way. For precision, "or more" should be inserted after "10%."

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*Sponsor's Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director's Initials*\_\_\_\_\_  
*Date*